

PATENT APPLICATION
Response under 37 C.F.R. 1.116–
Expedited Procedure – Examining Group Art Unit 2618
Attorney Docket No.: 678-1882 (P11360)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S): WANG, Hong et al. **GROUP ART UNIT:** 2618
APPLICATION NO.: 10/525,144 **EXAMINER:** REGO, Dominic E.
FILING DATE: October 13, 2005 **DATED:** October 2, 2008

FOR: MBMS PtP AND PtM CHANNEL CHANGE

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Commissioner for Patents
P.O. Box 1450
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RESPONSE UNDER 37 C.F.R. §1.116

Sir:

In response to the Office Action of the United States Patent and Trademark Office dated July 2, 2008, please consider the following Request for Reconsideration.

REQUEST FOR RECONSIDERATION

Reconsideration of the present application is respectfully requested.

Claims 14-26 are pending in the application, of which Claims 14, 21, 23 and 25 are written in independent form. It is gratefully acknowledged that the Examiner objected to Claim 18 as being dependent on a rejected base claim, but would allow Claim 18 if rewritten in independent form to include all of the limitations of the base claim and any intervening claims.

In the Office Action, the Examiner rejected Claims 14-17 and 19-26 under 35 U.S.C. §103(a) as being unpatentable over U.S. Publication No. 2002/0025815 to *Rune et al.* (hereinafter *Rune*) in view of U.S. Patent No. 6,701,155 to *Sarkkinen et al.* (hereinafter *Sarkkinen*).

Regarding the §103(a) rejection, the Examiner alleged that the *Rune* reference teaches each and every element in Claim 14 except performing switching channel type between the P-t-M channel and the P-t-P channel based on a number of users having the MBMS service in the cell, which Examiner alleges is taught by *Sarkkinen*. In response, Applicants respectfully traverse.

Generally, Claims 14-24 are directed to a channel type switching method for a multimedia broadcast and multicast service (MBMS) point to point (P-t-P) and point to multi point (P-t-M) channel. Claims 25-26 are similarly directed to a data communication channel establishment method for setting up MBMS.

Claim 14 recites, *inter alia*, notifying the SRNC of the determined MBMS channel type from the DRNC. Similar recitations are found in the other independent claims. It was previously argued that *Rune* in view of *Sarkkinen* failed to teach this recitation, and that *Rune* does not concern MBMS and therefore fails to teach this notifying the SRNC of the determined MBMS channel type, as further recited in Claim 14, because *Rune* never determines an MBMS channel

type. Moreover, it was argued that *Rune* fails to disclose transmitting MBMS data with the determined channel type to UEs requiring MBMS service, also recited in Claim 14.

In the Response to Arguments on pages 10-11 of the Office Action, the Examiner alleged that the arguments were not persuasive. However, the Examiner failed to respond to Applicants' argument that the "notifying" step at issue is not taught in the cited combination. To wit, the Examiner failed to point out where in *Rune* the alleged notifying the SRNC of the determined MBMS channel type from the DRNC ever takes place. The Examiner failed to articulate where, in *Rune*, any MBMS channel is determined. It is respectfully asserted that no MBMS channel is determined anywhere in *Rune*. *Sarkkinen* is not relied on to cure this deficiency in *Rune*, all of which renders the rejection insufficient in terms of the requisite *prima facie* obviousness.

More specifically, the Examiner alleges that Fig. 3, step 100-1 and paragraph [0055] in *Rune* teaches the "notifying" recitation at issue. However, Step 100-1 of *Rune* is merely performed by the SRNC, not the DRNC, and here *Rune* determines a need to switch channels but fails to determine "the MBMS channel type", as claimed.

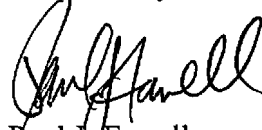
Further, paragraph 0055, lines 10-16 in *Rune* teach "*channel switching process 100 enables serving radio network controller (SRNC) 26(1) to assign radio resources to be utilized for the connection with user equipment (UE) 30 upon switching the connection from dedicated to common channels, even though user equipment unit (UE) 30 is in a cell controlled by drift radio network controller (DRNC) 26(2).*" This teaching indicates resource allocation by the SRNC, which Applicants respectfully assert has no relation with any operation performed in the DRNC, such as "determining channel type" or "sending the determined channel type to the SRNC".

Accordingly, even though *Sarkkinen* is directed to a p-t-m connection, it is respectfully submitted that the rejection is incorrect since each of the recitations in the independent claims are not taught or fairly suggested by *Rune* in view of *Sarkkinen*. For at least the foregoing reasons, withdrawal of the §103(a) rejection is respectfully requested.

Independent Claims 14, 21, 23 and 25 are believed to be in condition for allowance. Without conceding the patentability per se of dependent Claims 15-20, 22, 24 and 26, these are likewise believed to be allowable by virtue of their dependence on their respective independent claims. Accordingly, reconsideration and withdrawal of the rejections of dependent Claims 15-20, 22, 24 and 26 is respectfully requested.

Accordingly, all of the claims pending in the Application, namely, Claims 14-26, are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicants' attorney at the number given below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul J. Farrell", is written over the typed name.

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